

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN GROSS,

Plaintiff,

v.

ORDER

12-cv-577-wmc

DEPARTMENT OF CORRECTIONS, GARY HAMBLIN,
WILLIAM POLLARD, DON STRAHOTA,
MIKE MEISNER, CAPT. MURASKI,
CAPT. HOLM, CAPT. OLSON,
CAPT. OR UNNAMED SHIFT SUPERVISOR,
C.O. MASON, C.O. PONTOW,
CO.O MARTIN, C.O. GOESER,
C.O. BRADLEY, C.O. ROSENTHAL,
SGT. BEASLY and SGT. HENSLIN,

Defendants.

Plaintiff John Gross, a prisoner at the Wisconsin Secure Program Facility, is proceeding *in forma pauperis* in this lawsuit. Plaintiff has moved for an order directing prison officials to pay the remaining balance of the filing fees in this case from his release account. I am denying this request.

Under the Prison Litigation Reform Act, an inmate who files a lawsuit in federal court under the *in forma pauperis* statute must pay the \$350 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments of 20% of the preceding month's income, in accordance with 28 U.S.C. § 1915(b)(2). On August 13, 2012, this court entered an order assessing plaintiff a \$92.23 initial partial payment of the filing fee for this case,, which plaintiff paid on August 20, 2012.

Although this court admires plaintiff's initiative, I cannot order the state to allocate plaintiff's release account funds in the manner he requests. The language of 28 U.S.C. § 1915(b)(1) suggests that prison officials are required to use a prisoner's release account to satisfy

an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of such initial partial payments, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from his release account. Because plaintiff cannot use his release account funds to pay the remaining balance of the \$350 filing fee or for his expenses in pursuing his claims, I will deny his motion.

ORDER

IT IS ORDERED that plaintiff John Gross' request for an order directing prison officials to pay the remainder of his filing fee from his release account, dkt. #5, is DENIED.

Entered this 28th day of September, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge